



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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September 17, 2015

Bocci, LLC
c/o Raymond Eddy
The March-Westin Company, Inc.
360 Frontier Street
Morgantown, WV 26505

**RE: V15-54 thru V15-56 / Bocci, LLC / 48 Donley Street
Tax Map 28, Parcel 17**

Dear Mr. Eddy:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the subject development at 48 Donley Street. The decisions are as follows:

Board of Zoning Appeals, September 16, 2015:

V15-56 – Variance petition concerning curb cuts.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted variance relief to exceed the minimum curb cut standards at the curb line and at the street right-of-line as requested without conditions [Article 1351.01(D)].

V15-54 – Variance petition concerning perimeter landscape buffer.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted variance relief from perimeter landscape buffer requirements as requested without conditions [Article 1367.08(B)(1)].

V15-55 – Variance petition concerning potential conflict between pedestrians and vehicles.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted variance relief from the minimum distance standard between parking spaces and pedestrian crosswalks as requested without conditions [Article 1351.01(C)(2)].

These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board. Please note that building permits must be issued prior to the commencement of work for which the conditional use and variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

A handwritten signature in cursive script, reading "Stacy Hollar". The signature is written in dark ink and is positioned below the word "Respectfully,".

Stacy Hollar
Executive Secretary

ADDENDUM A

Approved Findings of Fact

Case No. V15-56 Curb Cuts

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The proposed curb cut will serve two (2) adjoining facilities, which include access to the proposed parking lot and access to the existing garbage enclosure. The sidewalk will be maintained as a pedestrian first sidewalk design similar to the design used at the Spruce Street Farmers Market Place Pavilion.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The location of the existing garbage enclosure to the proposed curb cut creates a need for longer curb cut and cannot be separated given limited space available to serve both the parking lot facility and the existing garbage enclosure facility.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It will allow for a less confusing entrance to this lot and the existing garbage enclosure.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The longer curb cut will provide safe and efficient access to both the parking lot facility and the existing garbage enclosure facility

Case No. V15-54 Perimeter Landscape Buffer

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The addition of landscaping at the entrance is provided for the intent to be matched. Any future building on the adjacent lot would eliminate any planting placed in the side yard area of this property.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

To create a functioning parking area with the desired number of parking spaces, the entire lot, up to the property line, appears to be needed given minimum parking space and drive aisle dimension standards. The dimensional constraints of the site do not allow for additional landscaping at the side yard area.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The variance relief will allow the safe dimensions necessary for the parking layout given the petitioner's desired number of parking spaces.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

By reducing the number of proposed parking spaces from 12 spaces to 10 spaces, the newly gained space was programmed to increase the buffer areas and added additional screening at the entrance and exit of the proposed parking layout in an attempt to further the intent of the ordinance.

Case No. V15-55 Points of potential conflict between pedestrians and vehicles

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The potential conflict intended to be addressed by this standard appears to be mitigated at the Warren Street driveway entrance by the proposed one-way parking lot layout. Additionally, the petitioner has eliminated two (2) parking spaces near the Donley Street from the original design for the purpose of meeting the spirit and intent of this standard. Only a small portion of the parking space closest to Donley Street is closer than 20 feet from the adjoining parking lot crosswalk and the petitioner has created an accessible space at said location in an area void of accessible parking spaces.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The dimensions and geometry of the parking lot area along with the existing garbage enclosure near the proposed Donley Street entrance, the existing natural gas meter near the proposed Warren Street exit, and minimum dimensions standards for the parking spaces and the drive aisle appear to significantly reduce parking lot layout design options to achieve the petitioner's desired number of parking spaces.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It will prevent the removal of an addition parking spot from an already limited parking area.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The impact felt by the variance will be at the farthest limits of a 20 foot setback from the sidewalk along Donley Street. The one (1) space that slightly encroaches into the 20 foot setback standard near the Donley Street sidewalk appears to have the benefit of using the apron in front of the existing garbage enclosure for back-out movement. Additionally, sight lines for both pedestrians and motorists do not appear to be obstructed by the Marina Tower building or its appurtenances. The potential conflict intended to be addressed by this standard appears to be mitigated at the Warren Street driveway entrance by the proposed one-way parking lot layout.